

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

FREDERIC LEPPER,
Petitioner,

v.

LOIS RUSSO,
Respondent.

CIVIL ACTION NO. 04-11879-MLW

PETITIONER'S APPLICATION FOR A CERTIFICATE OF APPEALABILITY

The petitioner respectfully moves that this Court grant him a certificate of appealability (COA) pursuant to 28 U.S.C. § 2253. The petitioner seeks a COA as to this Court's dismissal of his habeas corpus petition. The claims for which the petition seeks a certificate of appealability are: (1) the denial of the right to have the jury determine all facts that may increase the statutory maximum under the Fifth Amendment, and (2) the denial of the right to the ineffective assistance of counsel where trial counsel failed to introduce substantial exculpatory evidence. The petitioner has submitted a brief memorandum that sets forth the reasons for granting the COA.

FREDERIC LEPPER
By his attorney,

/s/ Alan D. Campbell
Alan D. Campbell
B.B.O. No. 634188
P.O. Box 131
Brookline, MA 02446
(617) 735-8913

Dated: September 28, 2007

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on September 28, 2007.

/s/ Alan D. Campbell

Alan D. Campbell